

GAO

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House of Representatives

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**DOD PERSONNEL
CLEARANCES**

**Funding Challenges and
Other Impediments Slow
Clearances for Industry
Personnel**

Statement for the Record by Derek B. Stewart, Director
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Highlights of [GAO-06-747T](#), a statement for the record to the Committee on Government Reform, House of Representatives

Why GAO Did This Study

The Department of Defense (DOD) is responsible for about 2 million active personnel security clearances. About one-third of the clearances are for industry personnel working on contracts for DOD and more than 20 other executive agencies. Delays in determining eligibility for a clearance can heighten the risk that classified information will be disclosed to unauthorized sources and increase contract costs and problems attracting and retaining qualified personnel. On April 28, 2006, DOD announced it had stopped processing security clearance applications for industry personnel because of an overwhelming volume of requests and funding constraints. GAO has reported problems with DOD's security clearance processes since 1981. In January 2005, GAO designated DOD's program a high-risk area because of longstanding delays in completing clearance requests and an inability to accurately estimate and eliminate its clearance backlog.

For this statement GAO addresses: (1) key points in the billing dispute between DOD and OPM and (2) some of the major impediments affecting clearances for industry personnel.

www.gao.gov/cgi-bin/getrpt?GAO-06-747T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-5559 or stewartd@gao.gov.

DOD PERSONNEL CLEARANCES

Funding Challenges and Other Impediments Slow Clearances for Industry Personnel

What GAO Found

The costs underlying a billing dispute between DOD and OPM are contributing to further delays in the processing of new security clearance requests for industry personnel. The dispute stems from the February 2005 transfer of DOD's personnel security investigations function to OPM and associated costs for which DOD agreed to reimburse OPM. Among other things, the two agencies' memorandum of agreement for the transfer allows OPM to charge DOD annual price adjustments plus a 25 percent premium, in addition to the rates OPM charges to other federal government agencies. A January 20, 2006, memorandum from the Under Secretary of Defense for Intelligence to the Office of Management and Budget (OMB) questioned the continued need for the premiums and requested mediation from OMB. According to DOD and OPM, OMB has directed the two agencies to continue to work together to resolve the matter. The inspectors general for both DOD and OPM are expected to report on the results of their investigations into the dispute this summer.

Other impediments, if not effectively addressed, could negatively affect the timeliness of clearance-eligibility determinations for one or more of the following employee groups: industry personnel, servicemembers, and civilian government employees. All three groups are affected by DOD's longstanding inability to accurately estimate the size of its security clearance workload. Inaccurate estimates of the volume of clearances needed make it difficult to determine clearance-related budgets and staffing requirements. Similarly, the July 1, 2006, expiration of Executive Order 13381, which delegated responsibility for improving the clearance process to OMB, could potentially slow improvements in personnel security clearance processes DOD-wide as well as governmentwide. GAO has been encouraged by OMB's high level of commitment to activities such as the development of a government plan to improve personnel security clearance processes governmentwide but is concerned about whether such progress will continue after the executive order expires. In contrast, demand for top secret clearances for industry personnel and the lack of reciprocity (the acceptance of a clearance and access granted by another department, agency, or military service) are impediments that mainly affect industry personnel. A previously identified increase in the demand for top secret clearances for industry personnel has workload and budgetary implications for DOD and OPM if such requests continue to occur. Finally, the lack of reciprocity has a negative effect on employees and employers, and increases the workload for already overburdened investigative and adjudicative staff. Reciprocity problems have occurred despite the issuance of governmentwide investigative standards and adjudicative guidelines in 1997.

Chairman Davis and Members of the Committee:

Thank you for the opportunity to provide this statement for your hearing on the challenges facing the Department of Defense (DOD) and the Office of Personnel Management (OPM) in processing requests for personnel security clearances in a timely manner. Two years ago, we testified before this committee on similar challenges.¹ Before providing our observations about the challenges, I would like to provide some background to (1) give a general context for understanding clearances and describe the importance of industry personnel to our national security, (2) discuss how clearance problems can negatively affect national security, and (3) provide information about several recent events affecting the overall status of DOD's personnel security clearance program.

Background

As you know, Mr. Chairman, for over two decades, we have reported on problems with DOD's personnel security clearance program as well as the financial costs and risks to national security resulting from these problems (see Related GAO Reports at the end of this statement). For example, at the turn of the century, we documented problems such as incomplete investigations, inconsistency in determining eligibility for clearances, and a backlog of overdue clearance reinvestigations that exceeded 500,000 cases.² More recently in 2004, we identified continuing and new impediments hampering DOD's clearance program and made recommendations for increasing the effectiveness and efficiency of the

¹ GAO, *DOD Personnel Clearances: Preliminary Observations Related to Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel*, [GAO-04-202T](#) (Washington, D.C.: May 6, 2004).

² GAO, *DOD Personnel: More Consistency Needed in Determining Eligibility for Top Secret Security Clearances*, [GAO-01-465](#) (Washington, D.C.: Apr. 18, 2001); *DOD Personnel: More Actions Needed to Address Backlog of Security Clearance Reinvestigations*, [GAO/NSIAD-00-215](#) (Washington, D.C.: Aug. 24, 2000); and *DOD Personnel: Inadequate Personnel Security Investigations Pose National Security Risks*, [GAO/NSIAD-00-12](#) (Washington, D.C.: Oct. 27, 1999).

program.³ Also in 2004, we testified before this committee on clearance-related problems faced by industry personnel.⁴

A critical step in the federal government's efforts to protect national security is to determine whether an individual is eligible for a personnel security clearance. Specifically, an individual whose job requires access to classified information must undergo a background investigation and adjudication (determination of eligibility) in order to obtain a clearance. As with federal government workers, the demand for personnel security clearances for industry personnel has increased during recent years. Additional awareness of threats to our national security since September 11, 2001, and efforts to privatize federal jobs during the last decade are but two of the reasons for the greater number of industry personnel needing clearances today. As of September 30, 2003, industry personnel held about one-third of the approximately 2 million DOD-issued clearances. DOD's Office of the Under Secretary of Defense for Intelligence has overall responsibility for DOD clearances, and its responsibilities also extend beyond DOD. Specifically, that office's responsibilities include obtaining background investigations and adjudicating clearance eligibility for

³ GAO, *DOD Personnel Clearances: Additional Steps Can Be Taken to Reduce Backlogs and Delays in Determining Security Clearance Eligibility for Industry Personnel*, [GAO-04-632](#) (Washington, D.C.: May 26, 2004); and GAO, *DOD Personnel Clearances: DOD Needs to Overcome Impediments to Eliminating Backlog and Determining Its Size*, [GAO-04-344](#) (Washington, D.C.: Feb. 9, 2004).

⁴ [GAO-04-202T](#).

industry personnel in more than 20 other federal agencies,⁵ as well as the clearances of staff in the federal government's legislative branch.

Problems in the clearance program can negatively affect national security. For example, delays reviewing security clearances for personnel who are already doing classified work can lead to a heightened risk of disclosure of classified information. In contrast, delays in providing initial security clearances for previously noncleared personnel can result in other negative consequences, such as additional costs and delays in completing national security-related contracts, lost-opportunity costs, and problems retaining the best qualified personnel.

Longstanding delays in completing hundreds of thousands of clearance requests for servicemembers, federal employees, and industry personnel as well as numerous impediments that hinder DOD's ability to accurately estimate and eliminate its clearance backlog led us to declare the program a high-risk area in January 2005. The 25 areas on our high-risk list at that time received their designation because they are major programs and operations that need urgent attention and transformation in order to ensure that our national government functions in the most economical, efficient, and effective manner possible.⁶

⁵ We identified 22 other agencies in [GAO-04-632](#). Exec. Order No. 10865, *Safeguarding Classified Information Within Industry*, February 20, 1960, which was amended by Exec. Order No. 12829, *National Industrial Security Program*, January 6, 1993, authorizes DOD to reach agreement with other federal departments and agencies to extend its regulations concerning authorizations for access to classified information by industry. The agencies that have entered into agreements with DOD for security services under the National Industrial Security Program are the (1) National Aeronautics and Space Administration, (2) Department of Commerce, (3) General Services Administration, (4) Department of State, (5) Small Business Administration, (6) National Science Foundation, (7) Department of the Treasury, (8) Department of Transportation, (9) Department of the Interior, (10) Department of Agriculture, (11) Department of Labor, (12) Environmental Protection Agency, (13) Department of Justice, (14) Federal Reserve System, (15) U.S. Government Accountability Office (formerly U.S. General Accounting Office), (16) U.S. Trade Representative, (17) U.S. International Trade Commission, (18) U.S. Agency for International Development, (19) Nuclear Regulatory Commission, (20) Department of Health and Human Services, (21) Department of Homeland Security, and (22) Department of Education. The Department of Energy and the Central Intelligence Agency are signatories of the *National Industrial Security Program Operating Manual* and thus have reciprocity with DOD under provisions of the manual. Three federal agencies (the Department of Energy, the Central Intelligence Agency, and the Nuclear Regulatory Commission) also may grant security clearances to industry personnel who work on national security-related programs.

⁶ GAO, *High-Risk Series: An Update*, [GAO-05-207](#) (Washington, D.C.: January 2005).

Shortly after we placed DOD's clearance program on our high-risk list, a major change in DOD's program occurred. In February 2005, DOD transferred its personnel security investigations functions and about 1,800 investigative positions to OPM. Now DOD obtains nearly all of its clearance investigations from OPM⁷, which is currently responsible for 90 percent of the personnel security clearance investigations in the federal government.⁸ DOD retained responsibility for adjudication of military personnel, DOD civilians, and industry personnel.

Other recent significant events affecting DOD's clearance program have been the passage of the Intelligence Reform and Terrorism Prevention Act of 2004 and the issuance of the June 2005 Executive Order No. 13381, Strengthening Processes Relating to Determining Eligibility for Access to Classified National Security Information. The act included milestones for reducing the time to complete clearances, general specifications for a database on security clearances, and requirements for greater reciprocity of clearances (the acceptance of a clearance and access granted by another department, agency, or military service). Among other things, the executive order resulted in the Office of Management and Budget (OMB) taking a lead role in preparing a strategic plan to improve personnel security clearance processes governmentwide.

Using this context for understanding the interplay between DOD and OPM in DOD's personnel security clearance processes, my statement addresses two objectives in this statement: (1) key points of a billing dispute

⁷ Currently, the National Security Agency, Defense Intelligence Agency, and National Reconnaissance Office each have a waiver that allows them to contract for their own personnel security clearance investigations.

⁸ In GAO, *DOD Personnel Clearances: Some Progress Has Been Made but Hurdles Remain to Overcome the Challenges That Led to GAO's High-Risk Designation*, [GAO-05-842T](#) (Washington, D.C.: June 28, 2005), we listed the departments/agencies having statutory or delegated authority to conduct background investigations, as identified by the then Deputy Associate Director of OPM's Center for Investigations Services. Those departments/agencies are the Central Intelligence Agency; Department of State; Department of the Treasury; Internal Revenue Service; Bureau of Engraving and Printing; Federal Bureau of Investigation; National Security Agency; U.S. Agency for International Development; Department of Homeland Security; Bureau of Customs and Border Protection; U.S. Secret Service; Small Business Administration; Broadcasting Board of Governors; Department of Justice—Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Postal Service; Tennessee Valley Authority; National Reconnaissance Office; and Peace Corps. Even though these agencies have authority to conduct their own investigations, some of them request that OPM conduct all or part of their investigations.

between DOD and OPM and (2) some of the major impediments affecting clearances for industry personnel.

As requested by this committee, we have an ongoing examination of the timeliness and completeness of the processes used to determine the eligibility of industry personnel to receive top secret clearances. We expect to present the results of this work in the fall. My statement today, however, is based primarily on our completed work and our institutional knowledge from our prior reviews of the steps in the clearance processes used by DOD and, to a lesser extent, other agencies. In addition, we used information from the Intelligence Reform and Terrorism Prevention Act of 2004; executive orders; and other documents, such as a memorandum of agreement between DOD and OPM. We conducted our work in accordance with generally accepted government auditing standards in May 2006.

Summary

The additional costs DOD has incurred for its investigations are contributing to further delays in the processing of new security clearances for industry personnel. Despite an already sizable backlog of security clearance applications, DOD stopped processing applications for industry personnel on April 28, 2006. DOD attributed the stoppage to a large volume of industry clearance requests and funding constraints. The funding constraints may be the result of a broader billing dispute that has been taking place between DOD and OPM. As part of the agreement that transferred DOD's clearance investigations function to OPM, OPM may charge DOD for annual price adjustments plus a 25 percent premium, in addition to the rates it normally charges other federal agencies for investigations. DOD disputes the continued need for the premium and has asked OMB to mediate; however, information from the two agencies indicates that OMB has directed DOD and OPM to continue to work together to resolve the matter. The inspectors general for both DOD and OPM are investigating the billing dispute and are expected to report on the results of their investigations this summer.

Some impediments, if not effectively addressed, can hinder the timely determination of clearance eligibility for servicemembers, civilian government employees, and industry personnel; whereas other impediments mainly affect industry personnel. One impediment that could affect all three employee groups is DOD's longstanding inability to accurately estimate its future clearance requests. In fiscal years 2001 through 2003, the department incorrectly estimated the number of requests by 90,000 to 150,000 cases per year. This impediment makes it difficult to determine clearance-related budgets and staffing requirements.

Another impediment for all three employee groups pertains to the July 1, 2006, expiration of Executive Order 13381, which delegated responsibility for improving the clearance process to OMB. We have been encouraged by OMB's high level of commitment during the development of a plan to improve clearance processes governmentwide. Because there has been no indication that the executive order will be extended, we are concerned about whether such progress will continue. In contrast, greater demand for top secret clearances for industry personnel and the lack of reciprocity would primarily affect industry personnel. Between fiscal years 1995 and 2003, the proportion of security clearance requests for industry personnel who required top secret investigations and adjudications increased from 17 to 27 percent of the workload. A rise in the demand for top secret clearances has negative side effects that include the need to renew clearances more often (than secret or confidential clearances), requirements for more information about applicants, and much higher costs. A second impediment that might affect industry personnel more than other employee groups is the absence of reciprocity. In addition to slowing how quickly contractors can use newly hired employees, this impediment increases the workload for already overburdened investigative and adjudicative staff. Reciprocity problems have occurred despite the issuance of governmentwide investigative standards and adjudicative guidelines in 1997.

Unexpected Volume of Clearance Requests and Funding Constraints Delay Security Clearances for Industry Personnel Further

DOD stopped processing applications for clearance investigations for industry personnel on April 28, 2006, despite an already sizeable backlog. DOD attributed its actions to an overwhelming volume of requests for industry personnel security investigations and funding constraints. We will address the issue of workload projections later when we discuss impediments that affect industry personnel as well as servicemembers and federal employees, but first we would like to talk about the issue of funding.

An important consideration in understanding the funding constraints that contributed to the stoppage is a DOD-OPM billing dispute, which has resulted in the Under Secretary of Defense for Intelligence requesting OMB mediation. The dispute stems from the February 2005 transfer of DOD's personnel security investigations function to OPM.

The memorandum of agreement signed by the OPM Director and the DOD Deputy Secretary prior to the transfer lists many types of costs that DOD may incur for up to 3 years after the transfer of the investigations function to OPM. One cost, an adjustment to the rates charged to agencies for

clearance investigations, provides that “OPM may charge DOD for investigations at DOD’s current rates plus annual price adjustments plus a 25 percent premium to offset potential operating losses. OPM will be able to adjust, at any point of time during the first three year period after the start of transfer, the premium as necessary to cover estimated future costs or operating losses, if any, or offset gains, if any.”

The Under Secretary’s memorandum says that OPM has collected approximately \$50 million in premiums in addition to approximately \$144 million for other costs associated with the transfer. The OPM Associate Director subsequently listed costs that OPM has incurred. To help resolve this billing matter, DOD requested mediation from OMB, in accordance with the memorandum of agreement between DOD and OPM. Information from the two agencies indicates that in response to DOD’s request, OMB has directed them to continue to work together to resolve the matter. The DOD and OPM offices of inspector general are currently investigating all of the issues raised in the Under Secretary’s and Associate Director’s correspondences and have indicated that they intend to issue reports on their reviews this summer.

If Not Effectively Addressed, Impediments Could Continue to Hinder Efforts to Provide Timely Clearances

Some impediments, if not effectively addressed, could hinder the timely determination of clearance eligibility for servicemembers, civilian government employees, and industry personnel; whereas other impediments would mainly affect industry personnel. The inability to accurately estimate the number of future clearance requests and the expiration of the previously mentioned executive order that resulted in high-level involvement by OMB could adversely affect the timeliness of eligibility determinations for all types of employee groups. In contrast, an increased demand for top secret clearances for industry personnel and the lack of reciprocity would primarily affect industry personnel.

An Existing and a Potential New Impediment Could Lead to Continuing Problems for All Types of Employees Seeking Clearances

A major impediment to providing timely clearances is the inaccurate projections of the number of requests for security clearances DOD-wide and for industry personnel specifically. As we noted in our May 2004 testimony before this committee, DOD’s longstanding inability to accurately project its security clearance workload makes it difficult to determine clearance-related budgets and staffing requirements. In fiscal year 2001, DOD received 18 percent (about 150,000) fewer requests than it expected, and in fiscal years 2002 and 2003, it received 19 and 13 percent (about 135,000 and 90,000) more requests than projected, respectively. In 2005, DOD was again uncertain about the number and level of clearances

that it required, but the department reported plans and efforts to identify clearance requirements for servicemembers, civilian employees, and contractors. For example, in response to our May 2004 recommendation to improve the projection of clearance requests for industry personnel, DOD indicated that it was developing a plan and computer software that would enable the government's contracting officers to (1) authorize a certain number of industry personnel clearance investigations for any given contract, depending on the number of clearances required to perform the classified work on that contract, and (2) link the clearance investigations to the contract number.

Another potential impediment that could slow improvements in personnel security clearance processes in DOD—as well as governmentwide—is the July 1, 2006, expiration of Executive Order No. 13381. Among other things, this executive order delegated responsibility for improving the clearance process to the Director of OMB for about 1 year. We have been encouraged by the high level of commitment that OMB has demonstrated in the development of a governmentwide plan to address clearance-related problems. Also, the OMB Deputy Director met with GAO officials to discuss OMB's general strategy for addressing the problems that led to our high-risk designation for DOD's clearance program. Demonstrating strong management commitment and top leadership support to address a known risk is one of the requirements for removing DOD's clearance program from GAO's high-risk list. Because there has been no indication that the executive order will be extended, we are concerned about whether such progress will continue without OMB's high-level management involvement. While OPM has provided some leadership in assisting OMB with the development of the governmentwide plan, OPM may not be in a position to assume additional high-level commitment for a variety of reasons. These reasons include (1) the governmentwide plan lists many management challenges facing OPM and the Associate Director of its investigations unit, such as establishing a presence to conduct overseas investigations and adjusting its investigative workforce to the increasing demand for clearances; (2) adjudication of personnel security clearances and determination of which organizational positions require such clearances are outside the current emphases for OPM; and (3) agencies' disputes with OPM—such as the current one regarding billing—may require a high-level third party to mediate a resolution that is perceived to be impartial.

Increased Demand for High-level Clearances and the Lack of Reciprocity Are Previously Identified Problems for Industry Personnel

As we have previously identified, an increase in the demand for top secret clearances could have workload and budgetary implications for DOD and OPM if such requests continue to occur. In our 2004 report, we noted that the proportion of requests for top secret clearances for industry personnel increased from 17 to 27 percent from fiscal years 1995 through 2003. This increase has workload implications because top secret clearances (1) must be renewed every 5 years, compared to every 10 years for secret clearances, and (2) require more information about the applicant than secret clearances do. Our 2004 analyses further showed that the 10-year cost to the government was 13 times higher for a person with a top secret clearance (\$4,231) relative to a person with a secret clearance (\$328). Thus, if clearance requirements for organizational positions are set higher than needed, the government's capacity to decrease the clearance backlog is reduced while the cost of the clearance program is increased.

When the reciprocity of clearances or access is not fully utilized, industry personnel are prevented from working. In addition to having a negative effect on the employee and the employer, the lack of reciprocity has adverse effects for the government, including an increased workload for the already overburdened staff who investigate and adjudicate security clearances. Problems with reciprocity of clearances or access, particularly for industry personnel, have continued to occur despite the establishment in 1997 of governmentwide investigative standards and adjudicative guidelines.⁹ The Reciprocity Working Group, which helped to prepare information for the governmentwide plan to improve the security clearance process, noted that "a lack of reciprocity often arises due to reluctance of the gaining activity to inherit accountability for what may be an unacceptable risk due to poor quality investigations and/or adjudications." Congress enacted reciprocity requirements in the Intelligence Reform and Terrorism Prevention Act of December 2004,¹⁰ and OMB promulgated criteria in December 2005 for federal agencies to follow

⁹ Reciprocity, as is required by Executive Order No. 12968, is a policy that requires background investigations and eligibility determinations conducted under the order be mutually and reciprocally accepted by all agencies, except when an agency has substantial information indicating that an employee may not satisfy the standards under this order. Reciprocity also involves the ability to transfer (1) an individual's existing, valid security clearance and (2) access from one department, agency, or military service to another or from the federal government to the private sector (and vice versa) when the individual changes jobs without having to grant another clearance or access.

¹⁰ Pub. L. No. 108-548, § 3001 (d), Reciprocity of Security Clearance and Access Determinations.

in determining whether to accept security clearances from other government agencies. Because of how recently these changes were made, their impact is unknown.

Concluding Observations

We will continue to assess and monitor DOD's personnel security clearance program at your request. We are conducting work on the timeliness and completeness of investigations and adjudications for top secret clearances for industry personnel and we will report that information to this committee this fall. Also, our standard steps of monitoring programs on our high-risk list require that we evaluate the progress that agencies make toward being removed from the list.¹¹ Lastly, we monitor our recommendations to agencies to determine whether steps are being taken to overcome program deficiencies.

Staff Contact and Acknowledgments

For further information regarding this testimony, please contact me at (202)512-5559 or stewartd@gao.gov. Individuals making key contributions to this testimony include Jack E. Edwards, Assistant Director; Jerome Brown; Kurt A. Burgeson; Susan C. Ditto; David Epstein; Sara Hackley; James Klein; and Kenneth E. Patton.

¹¹ The general steps required to remove DOD's personal security clearance program from the high-risk list are summarized in GAO, *DOD Personnel Clearances: Government Plan Addresses Some Longstanding Problems with DOD's Program, But Concerns Remain*, [GAO-06-233T](#) (Washington, D.C.: Nov. 9, 2005).

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